

Meeting the needs of neurodivergent children living in temporary accommodation

**Guidance for housing officers,
legal representatives and families**

January 2026





Acknowledgements

This guidance was co-produced with and by parents with neurodivergent children who are living in temporary and insecure housing. The 30 parents that shared their lived experience to inform this guidance are members of Housing Action Southwark and Lambeth (HASL). Only some of the parents are named because we offered anonymity.

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HASL parents

Adela	Cinthya	Iqra	Nora
Ainhoa	Clara	Juma	Pamela B
Ashna	Eden	Liceth	Patricia G
Biruk	Edith	Merhawit	Rosa C
Carmen C	Farha	Mercy	Rosa D

In partnership with



David Cowan, Associate,
Doughty Street Chambers

Message from HASL families



We thank you for reading this guide and for your efforts to follow, reflect on, and learn from the contents. We truly hope that this guide will be an important step in securing and improving the housing rights of families with neurodivergent children.

- We want to share some key messages from our families with neurodivergent children that are sometimes reflected in this guide and sometimes are not - due to limitations in the law (for example, the law does not guarantee a council home to everyone who needs one, or end homelessness and poverty).
- We want to make sure that the bigger picture is not forgotten. Throughout our discussions, we were absolutely clear about the homes our families need – these are family-sized council homes (usually three, four or five-bed homes) in our local communities with access to safe outdoor space. HASL has campaigned for years for huge investment from central government for family-sized council homes to meet the housing needs of their communities. This project has reinforced the importance and urgency of this demand.
- Our families suffer the direct effects of the devastating homeless crisis and we are under no illusion about the scale of change that needs to happen to ensure that families with neurodivergent children have the high-quality, safe, secure council homes we need.
- In all our discussions, three key housing needs came up again and again for all of us. The need for spacious homes and children to have their own bedrooms, the importance of being housed in our local communities, and the need for a private garden for safe outdoor play and relaxation.
- Mandatory offers of private housing are never acceptable for our families, especially when the private sector has usually been the main cause of our homelessness in the first place.
- Going through the homeless process is difficult for all homeless applicants. Time, flexibility, understanding, and a collaborative approach are all even more important when working on our cases. We know our children's needs best and we want to be listened to.
- Ensuring at the earliest opportunity that we have our correct priority on the housing waiting list can even help us move directly to permanent social housing without the need for temporary accommodation, which is an ideal situation.
- Housing is key but it does not solve all the difficulties we face. Even with the perfect housing that meets our children's needs, our families will still face many difficulties in our lives in a society where institutional and daily disability discrimination is so common.
- Our families will continue to support, learn, organise and campaign together for our housing rights and the council homes our families and communities need. This project has given us a useful tool, helped to develop our knowledge and understanding, and helped to focus our activities.

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This guidance was co-produced with and by 30 parents with neurodivergent children who are living in temporary and insecure housing. The parents are members of Housing Action Southwark and Lambeth (HASL) which campaigns for investment in family sized council homes.

The guidance is for families, legal professionals, councils and other services that work with people experiencing temporary accommodation who have neurodivergent children.

Key points



No one size fits all, needs vary and can also change over time.

So it is very important to: discuss with parents the needs of their children, to carry out a lawful housing needs assessment and keep that under review.

Diagnosis can be slow.

So councils need to be willing to gather information and liaise with personnel in schools, GP surgeries, children's centres and other places that are supporting families.

Working to find suitable solutions is a challenge.

Supporting the complex and high needs of these families will take more time and a more collaborative approach is needed. These efforts from everyone will lead to better outcomes for families. As part of this collaborative approach council officers need training and support. Families need independent advice and assistance.

Five things to remember:

Listen: listen to what parents tell you about their children's needs

Safety: put the safety of children first when considering the family's housing

Stability: look for ways to avoid change and where it's unavoidable slow it down

Siblings: if the accommodation is unsuitable for the neurodivergent child this affects everyone

Support: it takes a long time to get services in place and build up informal support. Try not to break them by moving people away

How this guide can help

Learn about the needs of families with neurodivergent children using our simple code: **Keep it personal, Keep it safe, Keep it local.**

Find out how to manage the homelessness pathway with our **step by step good practice for councils** and **tips for families**.

Read **expert legal commentary** to understand how the homelessness, Public Sector Equality Act and Children Act duties fit together.

See next page for good practice for councils and tips for families at each stage of the homelessness pathway.



Making a homeless application

Emergency temporary accommodation

Application phase

Assessment phase

Suitability of accommodation

Offers of accommodation

Making a homeless application

Good practice for councils

1. Ask all applicants about neurodivergent conditions at the earliest opportunity
2. General staff awareness raising, and training at least one staff member in needs and behaviours of neurodivergent children
3. Make sure all council departments are referring homeless applications.

Tips for families

1. Tell the council at the first opportunity about all conditions or suspected conditions that your child has, and send the council all supporting documents (eg. EHCP)
2. List the main behaviours and problems your child has
3. If you have housing – explain why you cannot keep living there due to your child's needs
4. If the council turns you away without helping, then urgently seek legal advice.

Emergency temporary accommodation

Good practice for councils

1. Conduct a housing needs assessment as soon as possible, and focus on the child's various needs
2. Have emergency stock available that is not hotels or B&B's
3. If the family are not being imminently evicted – can the council use the extra time to find longer term temporary accommodation?

Tips for families

1. Assume the council may try and place you in hotel or B&B (because they may not be properly considering your child's need). You could explain to the council in writing at the earliest opportunity why this would not be suitable
2. If you prefer to stay where you are for a short period rather than have emergency housing, discuss this with the council. Get written confirmation that they will be searching for suitable accommodation for you while you wait in your current housing
3. If the council refuses to provide emergency housing when you need it, or the housing is unsuitable, then urgently seek legal advice.

Application phase

Good practice for councils

1. Do not use the standard Personal Housing Plan
2. Due to the high needs of neurodivergent children, as best practice do not include steps to find private housing
3. Consider the housing register, including any additional priority they can apply or be referred for, and if a direct offer is suitable. Assist with any appropriate referrals and applications.

Tips for families

1. If you think you are homeless – do you have the “Relief Duty”? If not – you can request a review within 21 days (and seek legal advice)
2. Ask for a face-to-face appointment if you think it will help to explain your child’s needs
3. Personal Housing Plan:
 - a. If your steps are too much or inappropriate – tell the housing officer in writing
 - b. Is the council not taking enough steps to support your family at this stage? Or are some of the steps inappropriate/unhelpful? If this is the case – you can request a review within 21 days (and seek legal advice).

Assessment phase

Good practice for councils

1. Reach out to other departments and external organisations for help with the assessment (eg. social care, education, doctors, schools)
2. Read any supporting documents and submissions before the assessment
3. Take seriously the housing needs the family say they have, as they know the neurodivergent child best
4. Give the option of a face-to-face assessment
5. Be alert that the needs of neurodivergent children change regularly, and conduct a reassessment at least every 12 months.

Tips for families

1. Before the assessment meeting, prepare a list of your needs, including: the physical conditions of a property, safety features, location needs, and support you require
2. Before the assessment send your housing officer any important supporting documents, such as the EHCP
3. Ask for a face-to-face appointment if you think it will help to explain your child’s needs
4. Check the assessment as soon as you receive a written copy. Tell the council immediately if anything is wrong or missing, and ask them to change it. If the council do not change it, then seek legal advice
5. If your child’s needs change, tell the council immediately as it is likely they will need to complete a reassessment. Seek legal advice if they do not reassess the case when informed of a change in needs.

Suitability of accommodation

Good practice for councils

1. Before looking for a property to offer, check the Housing Needs Assessment is up to date. If it is not, then carry out a review
2. Have a potential property assessed by an Occupational therapist to determine if the property is suitable for the child's needs
3. Due to the difficulties of finding suitable temporary accommodation for children with high needs, consider the council's own stock whether as temporary accommodation or as a direct offer of permanent housing
4. If out-of-borough accommodation is being considered, urgently liaise with the authority of the potential property as soon as possible to determine the likely level of disruption to the child's life, including: schooling, transport and respite care
5. Ensure the suitability of a property is always thoroughly assessed before making an offer. For example, this may require an OT assessment or considering whether the Public Sector Equality Duty has been complied with. Mandatory offers should be a last resort.

Offers of accommodation

Good practice for councils

1. Thoroughly assess the suitability before making the offer
2. Make sure there is enough time for the family to view the property and consider the offer
3. Arrange a discussion with the applicant before formalising any offer, to allow the applicant to raise any remaining concerns
4. Avoid making mandatory offers, and instead take a collaborative approach that finds suitable accommodation with the family, rather than 'for' the family.

Tips for families

1. If viewing the property is important, write to the council in advance to ask that they allow you to view any offers due to your child's high needs. Taking your neurodivergent child to viewings can help you to identify problems with the property, and make sure you take videos/photos of any problems with the property
2. If you need more time than the council is allowing you to move, then ask the council for this in writing and explain why more time is needed due to your child's needs
3. Tell the council in writing of any specialist equipment that you will need help moving to new accommodation
4. Do not reject any mandatory offers without getting legal advice first – this is because refusals can have serious negative consequences. However, you can ask the council for more time to consider an offer if you need to find legal advice (though they may not agree)
5. You could try to negotiate with the council if you do not think a mandatory offer is not suitable. However, it is very important that you do not refuse the offer, that you state clearly in writing that you are not refusing the offer, and that you meet any deadlines for accepting/moving that the council set.

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In 2024, a group of families in South London met to share their experiences of living in temporary and insecure housing while caring for their disabled or neurodivergent children.

The families identified a need for clear guidance that could bring together legal requirements around housing, health perspectives and lived experience in one place. They wanted the guidance to be rooted in their own insights into what they and their children needed, while reflecting legal and health expertise.

As a result, Impact on Urban Health commissioned the development of this guidance which has been co-produced by families together with health and legal professionals. The families, all members of Housing Action Southwark and Lambeth (HASL), came together three times to share experiences, support one another and inform the content of the guidance.

About the guidance



This guidance has been produced for families, legal professionals, councils and other services that work with people experiencing temporary accommodation who have neurodivergent children. It promotes policy and practice that will ensure every child's stay in temporary accommodation is safe, healthy and as short as possible.

The aim was to create clear and accessible guidance that would:

- Improve understanding of the issues families with neurodivergent children face and how these need to inform proper housing needs assessments.
- Improve understanding of the tools, mechanisms and opportunities that are available to local authorities to help them house affected families in suitable accommodation.
- Begin the process of improving decision-making processes where families are in this situation and/or are owed a relief duty/main housing duty to move swiftly to suitable accommodation.

This document does not provide a 'one size fits all' approach to homelessness and its effects on neurodivergent children. The needs of families with a neurodivergent child vary greatly, and each homeless application should be considered on a case-by-case basis. However, this guidance could form an important part of required training for housing officers contributing to an improved understanding of the core characteristics and behaviours of neurodivergent children, particularly autistic children, and the housing needs arising from them. Greater understanding would allow housing officers to take a holistic approach to housing applications, needs assessments and accommodation offers, focusing on the needs of neurodivergent families from the outset.

This guidance is a pragmatic starting point, bringing together what has been learnt from families with lived experience and legal and health experts. There may be a need for more comprehensive guidance in the future and so Impact on Urban Health would welcome conversations with anyone interested in improving upon this version to better meet the needs of children and families experiencing homelessness.

Why the guidance is needed



At the time of writing this guidance, the number of children living in temporary accommodation in England had exceeded 170,000.

It is likely that a significant proportion of these children will be neurodivergent, given that it is estimated that up to 20% of the general population live with a neurodivergent condition. These children may have additional needs which should be considered in any housing needs assessment.

Frequently households with children who have to live in temporary accommodation are there for more than five years¹. Some families are repeatedly moved to different temporary places during that time. Many families have voiced the many challenges they face trying to meet their children's developmental, care and education needs in these circumstances².

This guidance recognises that providing temporary accommodation to households with neurodivergent children raises a range of issues for local authorities. Many of which are outside their usual practices and policies.

It also acknowledges that this guidance has been written at a time when there is a housing shortage, local authority resources are stretched and significant concerns have been raised about the costs of temporary accommodation.

However, local authorities have duties to secure suitable accommodation for families experiencing homelessness which cannot be delayed. Where an authority has failed to provide suitable housing, then it has to show that it is taking all reasonable steps to provide suitable housing³. Improved awareness of how living in temporary accommodation can affect households with neurodivergent children will benefit both families and local authorities. It will help local authorities to better meet every child's needs and ensure households have suitable accommodation as soon as possible with fewer moves.

¹ [Statutory homelessness in England: April to June 2025](#), Published 27 October 2025 [Last accessed 14.12.25]

² [Children's Commissioner warns of invisible crisis as delays and inequalities laid bare among children with neurodevelopmental conditions](#), 15 October 2024 [Last accessed 14.12.25]

³ [R\(Imam\) v Croydon LBC \[2023\] UKSC 45](#)

What the guidance covers



Part 1 defines neurodivergence and shares core characteristics of neurodivergent conditions that may affect children's housing needs.

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Part 2 aims to increase understanding of how and why the needs of neurodivergent children should be centred in homeless decisions, including feedback from affected families.

[> Page 17](#)

Part 3 of the guidance sets out the legal requirements and good practice for councils at each stage of the homelessness pathway. It also includes supporting legal commentary.

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Part 4 follows the same pathway but focuses on practical tips on navigating the system for families experiencing homelessness.

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Part 5 outlines the process for challenging homeless decisions, if required.

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1

Defining neurodivergence

Core characteristics

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⁴ Autistica (2024) [Embracing Complexity: Research priority setting](#) [Last accessed 14.12.25]

⁵ Autism research centre University of Cambridge (2024) [What is Autism](#) [Last accessed 14.12.25]

Neurodivergence is a community-developed term describing 'people whose ways of processing information, behaving, and experiencing the environment differ from the neurotypical majority'⁴.

In this guidance, the term neurodivergence is used to include autism, attention deficit disorder/attention deficit hyperactivity disorder (ADD/ADHD), dyslexia, dyspraxia, Tourette's syndrome, sensory processing disorders and obsessive compulsive disorder (OCD). It is common for people to have more than one of these conditions. Genetics and environmental factors both play a part, so sometimes more than one member of the same family will be neurodivergent.

Neurodivergent conditions affect people very differently, so the need for adjustments and support varies greatly between individuals. As it can takes years⁵ to get a diagnostic assessment, the needs of families waiting for an assessment should also be included.

Core characteristics

Though not an exhaustive list, the following core characteristics of neurodivergent conditions can affect a child's needs when moving into temporary accommodation.

Autism

Autism is a neurodevelopmental condition which affects the way a person communicates with, and relates to, other people and the world around them. Core characteristics include:

- **Communication:** Differences in the use and understanding of words, tone and body language/expressions. Some people with autism speak few or no words, and others may stop speaking during times of stress or anxiety.
- **Social imagination, behaviours and interests:** Finding it difficult to understand and predict other people and the world around them. Strong preferences for routine and certainty; unexpected change can cause anxiety. Repeating movements or behaviours to manage anxiety/express emotions.
- **Sensory processing differences:** May be sensitive to one or more of the five senses, and also to balance, movement, spatial awareness and internal states (e.g. hunger, temperature).

ADHD

ADHD affects a person's ability to pay attention to things and to control their impulses. Core characteristics include:

- **Inattentiveness:** Being easily distracted, finding it hard to listen and to follow instructions. May forget everyday tasks.
- **Hyperactivity and impulsivity:** High energy levels, fidgeting or talking noisily, being restless and moving around. Finding it hard to wait, interrupting, and acting impulsively without considering safety. May find it hard to regulate emotions.

Dyslexia

Dyslexia is a common learning difficulty. Core characteristics include:

- **Reading and writing:** Challenges with reading/writing/spelling. Spoken instructions are often easier to follow.
- **Organising and sequencing:** Finding it hard to plan, organise or carry out a sequence of directions e.g. new routes to school.

2

Understanding how neurodivergence can affect families' housing needs

Keep it personal

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Keep it safe

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Keep it local

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Keep it personal

The needs of neurodivergent children vary widely. So it is important for housing officers, particularly during a housing needs assessment, to ask questions about the individual child and, crucially, listen to what families have to say.

This process will help to establish whether and how the child's neurodivergence impacts the family's housing needs. The following needs should be considered.

Communication needs

- Difficulty in understanding, especially abstract ideas e.g. moving to a different home.
- Processing information, may need more time to understand new information e.g. why their routine changes, why they can't return to their previous home.
- Simplified language or pictures/symbols required e.g. to prepare for a change and mitigate distress.

Sensory needs

The smells and sounds of shared bathrooms or kitchen facilities (as often found in Bed and Breakfast (B&B) or hostel accommodation) can be overwhelming. Sometimes this prevents children from using the toilet or eating. Triggers that may cause distress include:

- Sight e.g. fluorescent, bright or flashing lighting, vivid and patterned wall décor.
- Sound e.g. environmental noise, such as beeping traffic light crossings.
- Smells e.g. from cooking or cleaning products nearby.
- Touch e.g. finding close proximity to other people difficult.
- Taste e.g. able to tolerate only a limited range of foods.

" My 7-year-old son cried every day for months to 'go home' and would not go into the new bedroom for weeks. When we went out, he would try to return to the old place even after a year."

Neurodivergent children can have significant challenges with emotional regulation. Self-regulating behaviours, such as self-soothing repetitive noises, banging or chair rocking, can have an adverse effect on those around them, including immediate neighbours.

" The downstairs neighbour complained so often about the noise my 5-year-old son made rocking his chair that I have to feed him on the floor now."

Keep it personal



Safety needs

- Lack of awareness of danger within and outside of the home can mean it is unsafe for children to have access to a kitchen or to a road outside.
- Difficulty navigating change, in routines, surroundings and living in close proximity to strangers.

Space needs

Neurodivergent children may have different space needs than other children. When assessing their housing needs, particular consideration should be given to:

- **Space to sleep.** Sleep problems affect up to 80% of autistic children⁶ and has also been shown to affect children with ADHD⁷. This can result in chronic sleep deprivation for all family members sharing a room. Research shows high numbers of parents of autistic children had poor sleep, resulting in increased stress and lower quality of life⁸.

"The front door opened directly onto the main road and my 10-year-old autistic son would try to run out anytime he heard the door open."

"Our 5-year-old daughter wakes every 2 hours through the night, singing, crying and banging on the wall waking all of us. My wife and I put her in our bed and we take turns sleeping on the floor so her siblings can get some sleep".

"We were overcrowded and my 8-year-old daughter had sleep and a lot of behaviour problems. But since we moved into council accommodation she has her own room and is sleeping more; her behaviour and even her education has improved."

⁶ Estes, A. et al (2024) 'Sleep and Autism: Current Research, Clinical Assessment, and Treatment Strategies' in *Focus* 2024 Apr 10;22(2) 162-169

⁷ *Frontiers in Pediatrics* 2022 July 22;10:919572

⁸ Mannion, A. and Leader, G. (2023) 'Relationship between child sleep problems in autism spectrum disorder and parent mental health and well-being' in *Sleep Medicine* Volume 109, 2023 September, Pages 4-10

Keep it personal



Space needs (continued)

- **Space to recover** from emotional distress/meltdowns.
- **Space for an adult to help with and supervise toileting** in a toilet or bathroom.
- **Space for therapy when preschool age** e.g. speech and language therapy, occupational therapy, home-visiting educational service for pre-school children with special educational needs and disability (SEND) and their families.
- **Space and cooking facilities** to prepare specific food for children who have special diets or sensory food issues and cannot have ready meals.
- **Space for equipment.** This could be a large buggy if unable to walk distances safely, continence products when toilet training takes longer, sensory toys for learning and emotional regulation or symbol systems to help with communication.
- **Safe space to play, inside and outside.** Neurodivergent children may find collaborative play difficult so need their own space to learn and regulate their emotions through play.

" My child's room is his refuge."

" My daughter's so much calmer now she has her own room and goes there whenever she needs to be alone."

" He is afraid of sitting on the toilet so needs me to be with him."

" I always need to go in the bathroom with them as my child likes to play with the taps and wouldn't stop even if it was flooding."

" He gets distressed by his siblings trying to join in and will lash out when upset. We're overcrowded, there's no room."

Keep it personal



Space needs (continued)

Many neurodivergent children find running around, bouncing or swinging calming. However shared play spaces can be challenging if children have difficulty playing alongside others or run off when upset. Families can also experience criticism from others who don't understand their child's needs and behaviour. A secure yard or garden allows families to give their neurodivergent child safe opportunities to play that other families take for granted.

- **Safe space for siblings.** If a neurodivergent child is in distress and having a meltdown, siblings need the space to move out of arm's reach or to do their homework without disruption.

" I take my child to the playground very early in the morning before anyone is there. We have to leave if another child comes because they are not able to play safely around other children".

" If he can reach my daughter's homework, he grabs it and screws it up. It's happened so many times, there's no room for her to do it."

" My teenage son finds it so difficult having no space from his autistic brother that he runs away."

Keep it safe



Navigating change and uncertainty

For many neurodivergent children, home is the only safe space in an unpredictable world. Moving home can be intensely disruptive. It may cause neurodivergent children considerable anxiety and distress, leading to behaviour that is difficult to manage and affects the whole family.

Families in this situation have found that having more information about the move has made a big difference. This could include:

- A clear timeline for the move to help the family prepare their child.
- Providing an inventory before moving into accommodation so the parent can tell their child what to expect and avoid unnecessary surprises.
- Preparing the child through a story; a child's school may be able to help with this.
- Offering the child visual information about the accommodation, either photos, a video walk-through or a visit.

Safe accommodation

In addition to the safe space requirements outlined earlier, there are other safety considerations when housing neurodivergent children. It can be challenging to keep children safe who lack awareness of danger, are hyperactive or who are awake for long periods during the night. These considerations may include:

- Windows with locks that can be safely open for ventilation. Families explained some neurodivergent children "like to be by the window but try and escape".
- Being located on ground floor.
- Cooking areas that can be secured to prevent accidents.
- A separate room where children with sleep problems can be safe and not disturb their siblings' sleep. The windows, doors and kitchen area need to be secure to prevent any risk of accident.

Keep it local

Families with neurodivergent children may have developed a network of borough-based professionals and services that support their child's needs. These can take years to establish.

They may also have bonded with other parents or families in local communities. These relationships can offer a lifeline of informal practical help (e.g. getting to appointments) and emotional support (e.g. accessing advice or communicating a neurodivergent child's needs in a shared language). Families accommodated out of borough may stand to lose their whole support network.

Health, education and social care services

Assessment processes usually involve several appointments, input and coordination between health, education and social care services. Being moved into a new area could mean losing existing links to these services at crucial points in the neurodivergent child's assessment and care.

This disruption can affect neurodivergent children and their families in many different ways. For example, a trusted GP, teacher or social worker who understands a child's history can play a crucial role in making sure a child receives the right diagnosis and care. Losing this continuity can delay or disrupt referral pathways, when wait times are already long.

Being moved into a new area can have serious repercussions for a neurodivergent child's education. After initial concerns have been raised, the process to decide whether a child needs an Education, Health and Care Plan (EHCP) can take a whole school year, sometimes longer. So a mid-school year move can derail this process. Other concerns raised by families were around school transport and the need for parents to be within a manageable distance of school to get there in an emergency.

Families that have been relocated often face a dilemma. Do they start building their care and support networks from scratch in a new area or travel back to where they were living

and cope with the costs and challenges this presents? Therefore any proposed change of location should first consider potential negative effects on support networks.

What is an Education, Health and Care Plan (EHCP)?

1. An EHCP is a legal document outlining the special educational, health and care needs of a child and the support necessary to maintain those needs. It is prepared for children with special educational needs and disabilities (SEND) where mainstream educational provision is not sufficient.
2. To obtain an EHCP, a needs assessment must be requested by either the child's parent, carer or education provider (nursery or school). Where the child is a young person aged 16 or over, they can request one themselves.
3. An EHCP contains specific sections which must be completed. They include the views of the child or young person about their education, health and care needs, an outline of those needs and the outcomes the plan hopes to achieve. Most importantly, it names the educational provision (school) which must be provided to the child.

Keep it local



Travel difficulties

Travel difficulties should also be considered before an out-of-area move is proposed. Families frequently cite difficulties using public transport due the neurodivergent child's needs and behaviours, particularly their need for routine. Distress can be provoked by:

- Unexpected change e.g. if transport is cancelled or disrupted.
- Sensory triggers e.g overcrowded bus with fellow passengers in close proximity, music, perfume or temperature.
- Negative responses from others to a child's vocal noises, tics or rocking.

This distress can affect children's safety and education. Families report choosing to walk wherever possible, to maintain a consistent route and timing that their child feels safe with. Others describe feeling forced into homeschooling, when a longer journey to school from temporary accommodation was unmanageable for their child.

" My 8-year-old was so distressed by the change in route that he tried to run away."

" From our temporary accommodation, we have to get three buses to school and my child gets so anxious the whole journey that she will be late. If we get there late, she is too upset, lays down on the ground and won't go in. So we have to go back home."

3

Managing the homelessness pathway

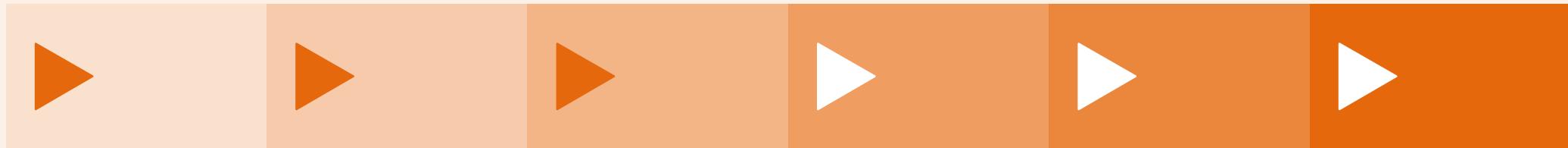
Good practice guide for councils

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This part of the guidance is designed to support councils to manage the homelessness pathway, sharing good practice at every stage. It also presents expert legal commentary to improve understanding of how homelessness, Public Sector Equality Act and Children Act duties fit together.

The homelessness pathway

Councils



**Making a
homeless
application**

**Emergency
temporary
accommodation**

**Application
phase**

**Assessment
phase**

**Suitability of
accommodation**

**Offers of
accommodation**

Legal requirements are drawn from the Housing Act 1996, as amended by the Homeless Reduction Act 2017. While good practice recommendations fall within the remit of reasonable adjustments under the Equality Act 2010. To ensure compliance with the authority's Public Sector Equality Duty, and the provisions under the Children Act 2004, housing officers should pay attention to the reasonable adjustments they can, and should, be making for applicants with neurodivergent children.

Legal commentary

The Equality Act 2010 and Children Act 2004

- Local authority officers may be more aware of the requirements of the Equality Act and Children Act in relation to individual decisions, than they are to their significance to housing and homelessness strategies or the ongoing monitoring and auditing of those strategies.
- The Equality Act also imposes a duty on public authorities, including local housing authorities, to make a 'reasonable adjustment' to any provision, criterion or practice ('PCP') which may put disabled people at a substantial disadvantage in comparison with people who do not share that disability. The duty involves taking such steps as is reasonable to avoid the disadvantage.¹¹ Examples of potential reasonable adjustments are scattered throughout this guidance.

The Equality Act 2010

- The Equality Act introduced the Public Sector Equality Duty ("PSED"). This requires a public authority in the exercise of its functions to have "due regard" to the need to (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- Having due regard refers, in particular, to the need to (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; and (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it.⁹ This may involve treating some people more favourably than others.¹⁰

⁹ The Equality Act 2010, S. 149(3)

¹⁰ S. 149(6); R (Elkundi and Ors) v Birmingham City Council [2021] EWHC 1024 (Admin); [2021] 1 WLR 4031, [310]

¹¹ S20(3) EA 2010

¹² Nzolameso v Westminster CC [2015] UKSC 22 [2015] PTSR 549, [38]-[41]

¹³ R (Bell) v London Borough of Lambeth [2022] EWHC 2008 (Admin), [116]

The Children Act 2004

- A housing authority is required to make arrangements for ensuring that its functions are discharged having regard to the need to safeguard and promote the welfare of children. This duty applies to the formulation of general policies and practices, as well as to individual cases.
- Housing authorities should have regard to the need to safeguard and promote the welfare of the children of a household in determining whether accommodation is suitable.¹²
- Without deciding the point, it has been said that the combined effect of the PSED and the Children Act is that local authorities need to be proactive in ensuring that they have available to them housing that will meet the needs of families with disabled children under homelessness law.¹³



Making a homeless application

Councils

For the purpose of this guidance, it is assumed the applicant is eligible, in priority need and not intentionally homeless. This is because the focus is on the additional needs commonly seen when households contain neurodivergent children. Eligibility and intentionally homeless mainly relate to the adults in the household, and a household with children will, in most cases, automatically be in priority need.

Defining the relevant legal duties

Homeless applications

Local authorities must accept a homeless application from anyone who they have reason to believe may be eligible and homeless or threatened with homelessness in 56 days.

There is no limit on the number of homeless applications an applicant can make. The threshold for accepting an application is intentionally very low. Where the applicant meets the threshold, and the application is not based on exactly the same facts as a previous application¹⁴, the authority must accept the application.

1. For all applicants, the local authority should accept homeless applications made to any department and in any form¹⁵. This is particularly important for families with neurodivergent children as:
 - a. They may be in contact with a wide range of departments due to their higher needs (e.g. education, social care, health).
 - b. Due to various housing needs that can arise with neurodivergence, there is a higher likelihood the applicant will be “homeless from home”, even if the housing problem would normally not cause homelessness in households without a neurodivergent child.
2. Once an application has been opened, the local authority has to immediately consider if the applicant is homeless. A family can be homeless for many reasons, including situations where the applicant has a home, but the home is not reasonable to continue to occupy known as being “homeless from home”). Among the many potential reasons a family with a neurodivergent child could be homeless are:
 - a. Overcrowding – neurodivergent children may need extra space. This means accommodation that could be acceptable for a similarly sized neurotypical household could be unsuitable for a family with a neurodivergent child to continue living in.
 - b. Unsafe conditions – emotional regulation can be a challenge for neurodivergent children. They can also lack awareness of danger and children with ADHD in particular can be hyperactive and impulsive.

¹⁴ R v Harrow LBC ex p Fahia [1998] 1 WLR 1396

¹⁵ Para 18.5-6 of the Homelessness Code of Guidance



Making a homeless application

Councils

This can make a home environment unsafe for the child, for example where cooking areas cannot be secured or windows cannot be safely opened.

- c. Proximity to strong sensory sources – neurodivergent children can become distressed by sensory stimulants that would not be seen as a problem by a neurotypical family. For example, a flat above a takeaway could produce smells that a neurodivergent child finds intolerable.

Best practice for local authorities

- Ensure frontline staff in housing, social care, education and benefits departments understand the different ways in which a homeless application can be made and how to identify them. For example, an application can be made in the form of a written document. But it could also come in the form of an applicant sharing information about their home which means it is no longer reasonable for them to live in it.
- Initial homeless application forms, referral forms and triage processes should expressly ask about the presence of neurodivergent conditions in the family. This should then be flagged on the homeless department's system.
- Extra time and care should be taken at the earliest stage to obtain details of health and housing needs, including requesting relevant supporting/medical documents from the family. Ideally this information gathering would be completed by staff trained on the needs of neurodivergent children.
- Deciding whether a household with neurodivergent children is homeless should always be a detailed decision. It should consider all the possible reasons why the current property is unreasonable to live in.
- Housing officers should have an awareness of behaviours commonly exhibited by neurodivergent children, and required training should be given to officers on the importance of taking a behaviour-centred approach to assessing homeless applications. For example, if an applicant describes their child being overwhelmed by noise or light, then this could indicate autism. The officer should give weight to this information and not focus solely on whether there is medical evidence or a formal diagnosis.



Emergency temporary accommodation

Councils

1. When a homeless application has been made, the local authority could be under a duty to provide emergency accommodation during the assessment process. Usually this accommodation is only intended for a short period of time, so it is of a lower standard, such as B&Bs and hotels.
2. Despite the suitability requirements of emergency accommodation normally being lower than applied to long-term temporary accommodation, this does not mean that the needs of neurodivergent children can be ignored. In fact, the very temporary nature of emergency accommodation could mean it is not appropriate at all, as change can cause distress and disrupt access to education and healthcare.

Defining the relevant legal duties

Interim accommodation duty

Where the housing authority has reason to believe the applicant may be eligible, homeless or threatened with homelessness in 56 days, and in priority need for housing, they must immediately secure accommodation for a homeless applicant and their household.

This duty to accommodate is often referred to as the interim accommodation duty. It is under this duty that emergency accommodation is normally secured.

So long as the applicant meets the above criteria, the interim accommodation duty should remain in place until the housing authority successfully relieves the applicant's homelessness or reaches a decision as to whether the main housing duty is owed.



Emergency temporary accommodation

Councils

Legal commentary

Hostels, hotels and B&B accommodation

- Few households will actively want to be placed in temporary accommodation in a hostel, hotel or B&B. Generally, and subject to some exceptions, B&Bs are only suitable for families where there are no other options and, even then, for a maximum of six weeks.¹⁶ Anecdotally, this time limit can be “honoured in the breach” – that is, it is recognised that households may be in such accommodation for longer periods in the absence of anything more suitable. This is, however, a breach of duty.
- The available research clearly identifies all these types of accommodation as problematic for some neurodivergent

people. For example, although related to autism, the Autism and Homelessness Toolkit makes this observation which may be considered to be more widely applicable:

- “It is important to recognise that even with your best efforts many hostels will still be challenging environments for autistic people. They are likely to find it difficult being around other hostel residents, and parts of the environment which may be beyond your control, such as bright lights, may make them feel very uncomfortable.”¹⁷

Best practice for local authorities

- Where the household includes neurodivergent children, ensure a lawful housing needs assessment is conducted at the first opportunity. This should happen even if the assessments and personalised plan duty has not yet been triggered. As a reasonable adjustment, some form of housing needs assessment should still be conducted prior to any offer of emergency housing to ensure the accommodation is suitable.
- In practice, hotel and B&B accommodation will never be suitable for families with neurodivergent children, due to issues including their greater space needs, and the inappropriateness of shared kitchens and toilets. The local authority needs to ensure they are able to quickly find suitable accommodation for these households.
- The local authority should consider if emergency accommodation is suitable for the particular needs of each family and discuss with the applicant if there is a workable alternative. For example, if the applicant is ‘homeless from home’, the current accommodation could be better than any emergency accommodation (especially considering the effect on the child of moving twice in short succession). If the applicant is willing to stay where they are in the short term, the local authority should then start searching for suitable longer-term accommodation.

¹⁶ Homelessness (Suitability of Accommodation) (England) Order 2003, SI 2003/3326

¹⁷ Homeless Link (2024) [Autism and Homelessness Toolkit](#), p22. [Last accessed 14.12.25]

Application phase

Councils

Defining the relevant legal duties

The prevention duty and the relief duty

The prevention duty places a duty on housing authorities to work with people who are threatened with homelessness. Its purpose is to try to keep applicants in their homes. It requires that the housing authority must take reasonable steps to help the applicant to secure that accommodation does not cease to be available for their occupation¹⁸. Ideally the applicant will not have to move home. The duty will be owed to the applicant if the authority is satisfied that the applicant is eligible and threatened with homelessness within 56 days¹⁹.

In many circumstances, the applicant may already be without any accommodation they can reasonably or legally occupy. In those circumstances, where the authority is satisfied the applicant is eligible and homeless²⁰, the relief duty should be owed.

The relief duty requires housing authorities to help people who are homeless to secure accommodation. It states that the authority must take reasonable steps to help the applicant secure that suitable accommodation becomes available for the applicant's occupation for at least six months²¹.

In deciding what reasonable steps they should take, the local housing authority should have regard to the housing needs assessment which has been produced (see Assessment section)²². In practice, the application phase and assessment phase run in parallel. The housing officer will usually conduct an interview with the homeless applicant where homeless duties, a Personal Housing Plan and the housing needs assessment are all discussed.

1. When a homeless application is made, the local authority has to consider if either of the preliminary duties are owed. These duties are the prevention duty and the relief duty. The preliminary duties are meant to last for 56 days and should give the applicant and the council an opportunity to work together to prevent or relieve homelessness (depending on the duty owed). The reasonable steps that the applicant and the council should take are detailed in a Personal Housing Plan (PHP).
2. During or just after the relief duty, the local authority can use its discretion to refer the application to another local authority. Even if there is not a local connection due to residence, work or family, it is likely that applicants with neurodivergent children may still have a local connection for 'special

¹⁸ S195(2) Housing Act 1996

¹⁹ S195(1) HA 96

²⁰ S189B(1) HA 96

²¹ S189B(2) HA 96

²² S189B(3) and s195(3) HA 96



Application phase

Councils

circumstances', such as the child having special educational provision at a school in the borough. However, families with neurodivergent children have likely thought carefully about where they make their homeless application, as they know their children's needs best. Therefore, local authorities should:

- a. think carefully whether they should be making a local connection referral at all.
- b. ask the homeless applicant to explain all the reasons why they made the homeless application where they did. The housing officer should then carefully consider if these reasons amount to special circumstances, or if they mean it is in the child's best interest to keep the homeless application.

Legal commentary

Discharging into the private rented sector

A local authority can discharge the main housing duty or the "relief duty" by securing privately rented accommodation for the household.²³ The authority is required to consider ten matters before determining that such accommodation is suitable under the Homelessness (Suitability of Accommodation) (England) Order 2012. It needs to be satisfied about these matters on the basis of evidence, not assumptions.²⁴ In particular, the considerations include fire safety precautions, that the accommodation is in reasonable physical condition and a written tenancy agreement.

²³ Respectively, s. 193(6)(cc) & (7AA), and 189B(2)

²⁴ Hajjaj v Westminster CC [2021] EWCA Civ 1688; [2022] PTSR 420

Application phase

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Best practice for local authorities – Personal Housing Plan steps

- PHPs usually follow a standard template and involve searching for accommodation in the private rented sector. However, where an applicant's family includes neurodivergent children, it is very likely that the private rented sector will not be suitable at all due to greater bedroom need, need for a stable home environment, lower income due to higher care needs, restrictive location needs, and need for adaptations. Due to the high likelihood that private housing would be unsuitable, then as best practice local authorities should not include private housing related steps in the PHP's of families with neurodivergent children.
- Due to the challenges associated with caring for autistic children, it may be harder for applicants to be aware of their rights and to complete housing register applications. When writing the PHP, the local authority should check if the applicant is on the housing register and assist with the application as part of the PHP. The local authority will have most relevant information from the homeless application, and it should be a simple process.
- The housing officer should identify if a homeless applicant would qualify for any additional priority or needs on the housing register and assist with applications or make relevant internal referrals. The housing officer should also consider whether a direct offer of permanent social housing can be made at this stage (or at a later stage) to help avoid the homeless applicant having to go into temporary accommodation in the first place. Most local authorities have additional priority in their allocations scheme for medical related issues and/or discretionary priority for exceptional cases. Most allocations schemes also allow bedroom needs to be increased for medical reasons and reserve accessible properties for those who need them. Families with neurodivergent children will regularly qualify for higher priority, an extra bedroom and/or accessible housing.



Assessment

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Defining the relevant legal duties

The assessment duty

If an applicant is eligible and homeless or threatened with homelessness within 56 days, the housing authority must produce a written assessment of the applicant's case²⁵.

The assessment must cover:

1. Why the applicant became homeless or threatened with homelessness.
2. The housing needs of the applicant (and family) and what would constitute suitable accommodation for the applicant.
3. What support is necessary to have suitable accommodation and to retain such accommodation²⁶.

The housing authority should try to agree the content of the assessment with the applicant and must provide them with a written copy²⁷.

1. Local authorities are required to assess the needs of all applicants and their households, and this assessment should be kept under continuous review throughout the course of an applicant's homeless application. The assessment should assist local authorities to determine what accommodation would be considered suitable for the household and to explain what support will be necessary to ensure the applicant obtains and retains a tenancy.
2. A lawful housing needs assessment should be conducted at the first opportunity and, except in cases of an emergency, before any offer of accommodation is made. If emergency housing is required, some assessment of the family's needs should be done. This is particularly important for families with neurodivergent children as:
 - a. neurodivergent children may have specific housing needs which make it more challenging for local authorities to identify suitable accommodation which meets those needs.
 - b. placement in unsuitable accommodation is likely to have a disproportionate impact on neurodivergent children. So a local authority should focus on recognising the needs of these households from the outset so it can be confident that any accommodation offered will meet those needs.
 - c. it may be harder for families with neurodivergent children to retain a tenancy due to the additional needs of the neurodivergent child. The private rented sector is very likely to be impractical so the housing officer should make a conscious and reasoned decision about whether the family need social housing.
3. The authority is also required to prepare a PHP. The housing needs assessment and PHP are usually contained in one document. However, it is important to remember that the PHP and housing needs assessment provide two distinct functions and any challenges to their content must be challenged separately.

²⁵ S189A(1) Housing Act 1996

²⁶ S189A(2) Housing Act 1996

²⁷ S189A(3) Housing Act 1996



Assessment

Councils

Legal commentary

Housing needs assessment

1. The document containing the housing needs assessment and PHP sets out the support needs of the household, which “should be holistic and comprehensive, and not limited to those needs which are most apparent or have been notified to the housing authority by a referral agency”.²⁸ It provides the road map which will inform subsequent decisions.²⁹ The authority has to keep this document under review until it decides that it no longer owes the applicant a duty.³⁰
2. Authorities are reminded that an assessment of the suitability of accommodation based on an unlawful or otherwise legally flawed assessment is itself legally flawed.³¹
3. If things go wrong with the provision of temporary accommodation, it is commonly because this document is not adequately tailored to the circumstances of the household. Or, if it is, that it has not properly been considered by those allocating temporary accommodation. However, attention to the headline points in a housing needs assessment will often provide the “nuts and bolts” of the case.
4. The literature demonstrates that, to achieve the best possible assessment of the housing needs of households where there are neurodivergent members, attention needs to be given to the environment in which that assessment takes place. For example, to enable the household to describe their needs in the best possible way, noisy areas should be avoided, and there may be a need to consider different forms of communication.
5. Though the housing needs assessment and PHP document does not need to include an exhaustive list of housing needs, it must include the key needs relevant to any offer of accommodation.³² The assessment must also reflect the needs of any children.³³ The steps that the household and the authority are to take should be agreed with the household³⁴. If they are not agreed, the authority must record this and the reasons why³⁵.
6. Throughout this process, it is vital that the authority takes time to explain what is happening and why, in a way that is tailored to the needs of the applicant.
7. Research suggests that the following circumstances should be considered when considering housing pathways:
 - The needs of some neurodivergent people for routine and structure, and the anxiety caused by change. This means that too many moves between temporary accommodation can be problematic and the accommodation pathway may need to be planned to avoid this at the outset. The focus should be on the sustainability of housing solutions – helpful guidance exists to assist authorities.³⁶

²⁸ Homelessness Code of Guidance for Local Authorities, para 11.11

²⁹ Norton v Haringey LBC [2025] EWCA Civ 746, [32]

³⁰ S. 189A(9)

³¹ Norton v Haringey LBC [2025] EWCA Civ 746, [31]

³² R (ZK) v Havering LBC [2022] EWHC 1854; (Admin) [2022] HLR 47

³³ R (YR) v Lambeth LBC [2022] EWHC 2813; (Admin) [2023] HLR 16

³⁴ S. 189A(4)

³⁵ S. 189A(6)

³⁶ See, for example, T. Smith, Embracing Neurodiversity in Social Housing, York: Housing Quality Network, 2025



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Councils

- The support networks required and the consequences of the breakdown of those support networks. This means that location may be critical.
- The need for additional bedrooms to accommodate the needs of neurodivergent children. Any issue of affordability can be addressed through discretionary housing payments.
- The need for particular types of housing, which may require adaptations, such as for specific colours, adjustable lighting and “distinct zones” within a home.

8. The Homelessness Code of Guidance also says that the applicant’s wishes and preferences should be considered and recorded within the assessment; whether or not the housing authority believes there is a reasonable prospect of accommodation being available that will meet those wishes and preferences.

- 9. The most important thing is that housing needs assessments and PHPs need to be individually tailored. The experience of many advisors is that this individual tailoring does not happen to the extent to which is suggested above. This practice runs against the cultural change which Parliament hoped would occur after the Homelessness Reduction Act 2018 was implemented.
- 10. It also needs to be recognised that this individual tailoring should be updated as household needs develop. Households may, for example, have been able to access diagnostic or support agencies which can provide greater detail about housing needs. The needs of neurodivergent children also change over time. So regular checking in and/or updating will enable an authority to have the clearest picture of a household’s needs at any particular moment.

Assessment

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Best practice for local authorities

- The assessment must contain the “nuts and bolts” of the applicant’s housing and support needs. The housing officer should liaise with colleagues in social care and education, and also medical professionals and schools to ensure the assessment is comprehensive. It is helpful for the housing officer to read any medical or other relevant documents (where available) before speaking with the homeless applicant so they are familiar with the case. This will help to facilitate a meaningful discussion with the homeless applicant. But the housing officer should still allow the homeless applicant to lead the discussion about their children’s needs.
- Often a neurodivergent child may not have a formal diagnosis or the family may lack medical evidence as they are still on hospital waiting lists. The officer should avoid solely relying on documentary evidence and ensure they take into account behaviours explained to them by the applicant. The assessment should focus on how those behaviours may impact the housing needs of the family. The officer should also try to agree the content of the assessment with the applicant.
- The authority should think carefully about the type of tenancy to be offered to the family. As discussed above, it is very likely that private rented housing will be unsuitable for families with neurodivergent children. Furthermore, it may be harder for families with a neurodivergent child to retain certain types of tenancy because of, for example, noise disturbance, accidental damage or the need for adaptations. Private rented sector landlords are likely to be less considerate of these issues. As best practice local authorities should make clear in the housing needs assessment that private housing is not suitable for the household.
- The needs of neurodivergent children often change, sometimes dramatically, as they develop. The local authority is under a continuous duty to assess the needs of homeless households, and the written assessment is not determinative. If any applicant tells you the needs of their household has changed, the authority should reconsider the assessment and check whether the temporary accommodation provided still meets the household’s needs.
- In relation to reviewing assessments, the authority should keep in mind that a child’s Education, Health and Care Plan (EHCP) should be reviewed every 12 months. Therefore, as a minimum for families with neurodivergent children, the authority should consider reviewing



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the housing needs assessment every 12 months, once the main housing duty is accepted. This would ensure all important changes are captured and that the assessment is up to date with the family's current housing needs.

- The authority must keep in mind what an applicant says about the 'needs' of their family and take care to distinguish these from 'wishes'. For example, authorities often interpret additional bedroom requests as 'wishes' but for families with neurodivergent children, this request

is more likely to be a need. The local authority should defer to the applicant where appropriate.

- Neurodivergent families may find it challenging to communicate their needs over the telephone, or at short notice. Where possible, the officer should ask the applicant how they would prefer for the assessment to be carried out. They should always give the applicant an opportunity for a face-to-face assessment.

Legal commentary

Evidencing Need

1. There are four issues around evidence of needs:
 - a. The language of neurodivergence, as Part 1 of this guidance explains, incorporates a range of different diagnoses, which can raise intersectional challenges. The range of diagnoses often contain elements of ambiguity, and experts have different views and may provide different diagnoses.³⁷ These issues of expertise are important because they affect how local authorities will process that information. Expert opinion is important within homelessness

decision-making and can only be disregarded by a local authority if they have rational grounds for doing so.³⁸

- b. There aren't enough specialists available to provide evidence of housing needs regarding neurodivergence and, more specifically, children. Waiting lists for diagnosis and services are lengthy.³⁹ However, there are some sources of additional help beyond the expert medical community:
 - i. GPs are able to provide general information.

³⁷ L. Blood, G. Williams, P. Gutherson & S. Shaw, *Neurodiversity and Homelessness*, London: National Development Team for Inclusion, 2023

³⁸ *Guiste v Lambeth LBC* [2019] EWCA Civ 1758; [2020] HLR 12

³⁹ S. Wright & D. Bryceland, "Neurodiversity is an afterthought at the moment": Results from a pan-London survey of frontline staff's views about working with autistic people experiencing homelessness", London: Transformation Partners in Health and Care, 2024



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- ii. Advice from an Occupational Therapist (OT) can be helpful in identifying particular accommodation needs and required adaptations.
- iii. Other agencies, for example education or social care, may be working with the household and can provide their opinion about the housing needs of the household.
- iv. The Autism and Homelessness Toolkit⁴⁰ is highly regarded⁴¹ and can be helpful in identifying adjustments when working with clients showing undiagnosed signs of autism.

Finally, it should not be forgotten that, in the absence of specialist evidence, the housing needs of children are often best explained by parents and/or carers. They are experts through experience. Listening to them will enable the authority to give more consideration to how they might meet those needs.

- c. Most local authorities will take their own advice from medical and other practitioners about housing needs. However, when considering the needs of neurodivergent children, they need to be aware of the importance of personal examinations that have been completed

already (eg. in the autism diagnosis report or EHCP). They should not simply rely on advice based on the information before them and their medical advisor as this may be incomplete.⁴² General medical advisors may not be as well-informed as others within the authority as to the housing needs of a neurodivergent child (eg. the council's own occupational therapy team).

- d. Neurodivergent people can have a range of housing needs. There might be no additional needs. However, accommodation may need to be adapted to meet sensory needs, there may be a requirement for an additional bedroom or careful thought may need to be given to the location of temporary accommodation. This means that particular attention needs to be given to individual housing solutions and there may be a need for a clear housing pathway particularly where the performance of the main housing duty is being staged. As Welsh Government Guidance notes, in relation to autism: "Targeted interventions have the best chance of having the greatest impacts, because they will be focused on an individual's needs and strengths".⁴³

⁴⁰ Westminster Homelessness and Health Coordination Project, 2024

⁴¹ See Wright & Byceland

⁴² Shala v Birmingham City Council [2007] EWCA Civ 624, [2008] HLR 8

⁴³ Welsh Government et al, Autism: A Guide for Practitioners with Housing and Homelessness Services, Cardiff: Neurodivergence Wales



Offers of accommodation and suitability

Councils

Defining the relevant legal duties

The main housing duty⁴⁴

The main housing duty is a duty to secure that accommodation is available for the applicant's occupation⁴⁵. Normally this is done by making the applicant an offer of temporary accommodation.

The housing authority will accept the main housing duty when the relief duty has ended, and they agree the applicant is homeless and eligible for assistance, in priority need and not intentionally homeless⁴⁶.

Any accommodation secured under the main housing duty must be suitable. The main housing duty is ongoing until it is lawfully ended. This means that if one temporary accommodation ends, the housing authority must find the applicant somewhere else that is suitable.

The duty can only end in limited circumstances. The main circumstances include when the applicant:

1. secures an offer of permanent accommodation.
2. rejects an offer of suitable accommodation which, on review or appeal, is upheld by the authority as suitable.
3. is evicted from temporary accommodation through their own actions (e.g. anti-social behaviour, abandoning the tenancy or rent arrears).

1. Accommodation provided to an applicant under the homeless provisions is required to be suitable. Temporary accommodation provided under the main housing duty is intended to be provided on a medium to long-term basis. It should be of a higher standard than accommodation provided on an emergency basis. The local authority should keep in mind that for neurodivergent children, hotel and B&B emergency accommodation will never be suitable.

2. An authority cannot simply ignore the duty or regard it as impossible to perform simply because of its issues with resources. Parliament has imposed the obligation on them. While recognising the difficulties facing local authorities, the duty is on them and must be performed immediately. Once the authority recognises that the household is living in unsuitable accommodation, effectively it is in breach of the duty unless it provides alternative accommodation.

⁴⁴ S193 Housing Act 1996

⁴⁵ S193(2) HA 96

⁴⁶ S193(1) HA 96



Offers of accommodation and suitability

Councils

3. It is important to the performance of the main housing duty that there are a range of ways of securing such accommodation. The housing authority has a broad discretion as to how to secure suitable accommodation; it can either provide it, procure it from another person, or offer advice and assistance which will secure that suitable accommodation is available from some other person.⁴⁷
4. The amount of time the household is likely to be accommodated at the property will be relevant to suitability. Neurodivergent children often have a greater need for stability and the local authority should focus on securing suitable temporary accommodation which is likely to be available to the applicant in the long-term.
5. Suitable accommodation is accommodation that meets the physical and medical needs of the applicant and their household. For families with neurodivergent children, adaptations to the home may be necessary. Common physical requirements or adaptations to the home include:
 - a. Fitting windows, doors and internal cupboards housing boilers and dangerous equipment or materials with child-proof locks to keep children safe.
 - b. Blackout curtains for children who have difficulties with sleep.
 - c. Removal of fluorescent lighting for children with sensory issues.
6. Space and arrangement will be important to determine whether accommodation is suitable or not. Local authorities should consider whether additional bedrooms are needed for families with neurodivergent children. Some neurodivergent children will have difficulties with sleep and may be unable to share bedrooms with their siblings. Some children will need additional space for sensory equipment.
7. It is obvious that accommodation must be safe and accessible in order to be suitable. However, local authorities should be aware that there are particular issues for some neurodivergent children that run alongside accessibility.
 - a. Some neurodivergent children have less sensitivity to danger. Consideration should be given to the full range of safety issues,

⁴⁷ S. 206(1)



Offers of accommodation and suitability

Councils

especially those raised by the household as they will have more appreciation of the issues for their children. Specific issues include the safety of walkways above ground level, door handles, access to balconies and the accessibility of kitchen equipment.

- b. Some neurodivergent children may need to be carried up and down stairs. This may be appropriate with smaller children, but (clearly) less so with older children.
- 8.** Neurodivergent children often need routine and are likely to struggle with changes and transitions. In most cases, suitable accommodation will be accommodation as close as reasonably practicable to the applicant's previous accommodation. This can help the applicant to maintain their routine so that the child's home and school environment will continue to feel familiar.
- 9.** Local authorities are required to make offers of accommodation in line with their placement policy. Most local authority placement policies identify that families with a child in receipt of specialist services or schooling will have a priority to remain in-borough.
- 10.** In practice, a local authority will often fail to make offers in line with their placement policy. This disadvantages applicants with neurodivergent children because:
 - a. Placement away from specialist services will mean that the child will most likely lose access to those services, and they will take time to put in place again. This can cause a delay in obtaining diagnosis or treatment which can affect the child's development and can lead to behavioural challenges.
 - b. Moving home, if coupled with any change to their school provision, is likely to cause significant disruption to their education and will lead to increased anxiety and distress.



Offers of accommodation and suitability

Councils

Legal commentary

Location and out of area placements

1. The location of property is a standard criterion which must be considered when assessing suitability.⁴⁸ The Code of Guidance reminds authorities of the distinction between short and long-term accommodation. This is particularly relevant for households with neurodivergent children who have support needs which are met in a particular location. Short term accommodation outside that area might be appropriate, particularly in emergency situations, but may not be appropriate in the longer term.
2. In particular, a local authority is required to take into account the following considerations in determining whether accommodation is suitable:
 - a. the significance of any disruption which would be caused by the location of the accommodation to the employment, caring responsibilities or education of the person or members of the person's household;
 - b. the proximity and accessibility of the accommodation to medical facilities and other support which:
 - i. are currently used by or provided to the person or members of the person's household; and
 - ii. are essential to the well-being of the person or members of the person's household; and
3. These considerations can be particularly significant in relation to households with neurodivergent children. For example, for these families, disruption to education is not limited solely to examination periods and age, but also relates to the degree to which neurodivergent children can adapt to new educational environments and the ability of alternative schools to cater for their needs.
4. Careful attention should be given to any EHCP which will contain helpful information identifying the child's educational and other needs. However, local authorities are also reminded that not all children will have an EHCP, even if they might be entitled to one, due to resource issues.
5. Local authorities are reminded that, where temporary accommodation is provided, there are exceptions to the social security reductions under the so-called "benefit cap", "bedroom tax" and the local housing allowance. These exceptions provide more flexibility to authorities in terms of the location of the accommodation.
6. There has been considerable publicity and concern expressed about out-of-area placements by local authorities. Households have been uprooted from their established

⁴⁸ R (Sacupima) v Newham London Borough Council [2001] 1 WLR 563

⁴⁹ Homelessness (Suitability of Accommodation) England) Order 2012, SI 2012/2601, Ord 2



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communities to areas where they have to begin afresh, often far from their support networks.

7. It is recognised that authorities have limited resources, and there is a need to use all the accommodation available to them at any particular moment to ensure households have more settled accommodation.
8. The law enables authorities to secure suitable accommodation outside their area where it is not “reasonably practicable” to secure it in area.⁵⁰ If they do so, they must have regard to the distance of the accommodation from their area.⁵¹ In such circumstances, authorities are required to place households as close as possible to where they were previously living. In particular, where such accommodation is to be offered, authorities must have regard to the need to safeguard and promote the welfare of any children in the household.⁵²
9. When placing a household outside of the area, local authorities are required to make inquiries to the disruption to education for all household members, and especially children. The High Court⁵³ has confirmed that these inquiries require the local authority to establish that there are suitable arrangements for the children’s education in the area of the offered accommodation. This judgement was in relation to non-disabled children, and these duties will be even more important for neurodivergent children with an EHCP.
10. Local authorities should have a publicly available policy through which they allocate temporary accommodation and prioritise applicants for in and out-of-area placements. Provided it properly implements that policy, the authority should be able to explain its decision through the terms of this policy.⁵⁴
11. Methods of travel between locations (car, train, coach) are relevant considerations so that households can be secured accommodation some distance from their families. And, some decisions are said to be justified by reference to the ability to communicate with support networks through virtual apps.
12. However, in these cases and in addition to the usual factors,⁵⁵ authorities will need to bear in mind whether households with neurodivergent children require face-to-face contact with their support networks. They should also consider the emotional and financial costs of travel (which may be regular), the challenges of travelling with neurodivergent children and the need for, and provision of, respite care.
13. Although local authorities do not have to wait to secure accommodation closer to or within its boundaries local authorities are reminded that households may have good reasons for wishing to wait.⁵⁶ While they will have many different and complex needs to balance, the research suggests the significance to neurodivergent households of tight-knit support communities which may warrant waiting for in-area accommodation.

⁵⁰ S. 208(1)

⁵¹ Homelessness (Suitability of Accommodation) England) Order 2012, SI 2012/2601, Ord 2(a)

⁵² See, generally, *Nzolameso v Westminster CC* [2015] UKSC 22; [2015] PTSR 549

⁵³ *YR, R (On the Application Of) v London Borough of Lambeth* (2022) EWHC 2813 (Admin)

⁵⁴ *Alibkhet v Brent LBC* [2018] EWCA Civ 2742

⁵⁵ Such as place of worship, medical and social considerations

⁵⁶ *Alibkhet v Brent LBC* [2018] EWCA Civ 2742, [75]



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14. The law has been developed on the assumption that, properly, and where possible, authorities should secure accommodation in-area. That assumption is based on the fact that a household has applied to that particular authority. Therefore, a local authority's primary search is for in-area accommodation. However, for

some households, accommodation in any area would be preferable to their current circumstances. In these cases, particularly where there are acute accommodation needs, the authority can widen its search areas for the household and engage the household in the search for accommodation.

- 11.** If a local authority is considering placing an applicant outside of the borough, they are required to notify the host authority of the applicant's placement in the borough⁵⁷. They are also required to liaise with the host authority to make every reasonable effort to ensure arrangements are made to meet the child's educational needs. This notification is particularly important for applicants with neurodivergent children because:
 - a.** Neurodivergent children are more likely to require specialist schooling or be in receipt of an EHCP. This means it will be harder for the authority to source a school placement that meets the child's educational needs and additional arrangements may need to be put in place to ensure those needs are met.
 - b.** For children with an EHCP, responsibility for this plan will need to be transferred to the host authority. Additional co-operation will be needed to ensure that the transfer requirements are properly met.
 - c.** Children with an EHCP may also receive transport assistance or care assistance, such as respite. Transport and care assistance is not automatically transferred with the EHCP and the applicant may have to take additional steps with the host authority to ensure their child still receives this support.
- 12.** Local authorities are required to assess whether accommodation is affordable for a household.⁵⁸ If accommodation is not affordable, it cannot be suitable. Authorities use different approaches for assessing affordability. Some use the guidance provided by the Association of Housing Advice Services.⁵⁹

⁵⁷ s208 Housing Act 1996

⁵⁸ Homelessness (Suitability of Accommodation) Order 1996

⁵⁹ Baptie v Kingston-upon-Thames RLBC [2022] EWCA Civ 888



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13. However, the general question for the local authority is what is reasonably required to meet the essential needs of the family. This is an objective assessment, which means that the views of the assessing officer as to what is reasonable are not necessarily relevant.
14. Whichever method of assessment is adopted, the local authority should be aware of the different needs and expenses of a household with a neurodivergent child or children. These can include certain treatments or activities (such as sensory activities to stimulate the child) or additional travel expenses where the household relies on third party support.



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Best practice for local authorities

- When assessing whether accommodation is suitable for the applicant, the authority should first consider the content of the housing needs assessment and check that this document reflects the family's current needs. If the assessment is not up to date, the authority should review the assessment before any offer of accommodation is made.
- For families with a neurodivergent child, the authority should consider whether it is necessary for an OT to assess whether the identified property meets the physical and medical needs of the applicant. A professional with expertise in assessing the housing needs of disabled people will be best placed to determine if the property is suitable. By helping rule out unsuitable accommodation at an early stage, this approach could save significant time, distress and resources. As a reasonable adjustment, this assessment should be done prior to making the applicant the offer of alternative accommodation.
- If the OT assessment identifies issues with the accommodation which cannot be resolved prior to the family's placement, the authority should consider delaying making the offer, agree the applicant does not need to take up occupation until the issues are resolved, or identify alternative accommodation.
- Remember, it may be more challenging to identify suitable accommodation which meets the needs of neurodivergent children. In order to source suitable accommodation for neurodivergent children, the local authority should consider using its wider resources, such as its housing register stock or void council stock. This can be done as either temporary accommodation or a direct offer of social housing. It should also consider requesting assistance from other local authorities⁶⁰ or housing associations where appropriate.
- A lapse in education, school transport or respite care can have a severe negative effect on neurodivergent children. If the local authority is considering placing the family out of borough, make sure to notify the host authority at the first available opportunity. This will ensure every reasonable effort can be made to make sure the child's needs are met in that borough and that the EHCP is transferred correctly without delay.
- The authority should ensure that before any offer of suitable accommodation, it is taking into consideration its duties under the Public Sector Equality Duty and section 11 of the Children Act 2004. The impact of unsuitable accommodation on neurodivergent children can be particularly damaging, so housing officers should take extra

⁶⁰ s213 Housing Act 1996



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care to eliminate disability discrimination before making an offer of accommodation.

- It can take many months, if not years, to obtain an EHCP. Similarly, some neurodivergent children may not require an EHCP but may have another important reason to remain at their

school. For example, they may have a particular teacher who provides unique comfort or support. Local authority placement policies should be written to ensure officers have discretion to consider these families for in-borough accommodation to ensure consistency in education.

Legal commentary

The Public Sector Equality Duty and suitable offers

1. The provision of suitable accommodation under homelessness legislation engages the PSED.⁶¹ Housing officers should be aware of the PSED before making the decision.⁶² Although the assessment process will, by necessity, require the authority to have due regard to the PSED,⁶³ the following considerations may be relevant:
 - a. A recognition that a family member has a disability, as defined by the Act;
 - b. A focus on the specific aspects of their behaviours, which are relevant to the suitability of their accommodation or the accommodation offered to them;
 - c. A focus upon the consequences of their impairments, both in terms of the disadvantages which they might experience in using their accommodation

or the accommodation offered as their accommodation, by comparison with persons without those impairments;

- d. A focus upon their particular needs in relation to accommodation arising from those impairments, by comparison with the needs of persons without such impairments, and the extent to which their accommodation or the accommodation offered met those particular needs;
- e. A recognition that their particular needs arising from those impairments might require them to be treated more favourably in terms of the provision of accommodation than other persons not suffering from disability or other protected characteristics; and

⁶¹ Pieretti v Enfield LBC [2010] EWCA Civ 1104 [2011] PTSR 565

⁶² R (Brown) v SoS for Work and Pensions [2008] EWHC 3158 (Admin)

⁶³ McMahon v Watford Borough Council [2020] EWCA Civ 497; although, see Hotak v Southwark LBC & Solihull MBC [2015] UKSC 30



Offers of accommodation and suitability

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- f. A review of the suitability of their accommodation or the accommodation offered as accommodation which paid due regard to those matters.⁶⁴
2. However, local authorities should be aware that these duties exist (and are important) beyond the individual case. So, there might be ongoing data capture and monitoring of any system being used to secure accommodation for applicants.⁶⁵ Proper monitoring of a system (in the context of the obligations of the Home Office to destitute households) was said to require:
 - a. a regard to the context;
 - b. identification of the characteristics of the individuals involved;
 - c. the following of the progress of each case;
 - d. the alerting of cases that were at risk of exceeding a reasonable time for any breach to be addressed;
- e. a regular review of where and why cases were at a risk of exceeding a reasonable time for performance of the duty and what were the characteristics of the individuals placed at this risk;
- f. the recording of when a reasonable time was exceeded, where and why that occurred, how long provision of accommodation eventually took and what the consequences were for the individual involved;
- g. identifying where and why and with what outcome an individual applied to the court for an order;
- h. allowing trends to be identified and addressed, including by reference to the characteristics of the individuals involved;
- i. reporting on action of changes made to the system in light of the above and the effectiveness of those changes.

⁶⁴ Adapted from the considerations suggested by the Court of Appeal in Haque v Hackney LBC [2017] EWCA Civ 4

⁶⁵ R (DMA) v SSHD [2020] EWHC 3416 (Admin); [2021] 1 WLR 2374



Offers of accommodation and suitability

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Legal commentary

Refusal of offers

1. Applicants can refuse an offer of accommodation, which an authority regards as suitable. Different consequences apply, however, in relation to a refusal of an offer depending on the nature of the duty owed.
2. In relation to the initial accommodation duty pending inquiries, the only consequence if an offer is refused or rejected subsequently is that the local authority may decide that it discharged that duty. It does not absolve the authority from its other inquiry duties. However, in essence, the applicant will have to find their own interim accommodation.
3. The duty to relieve homelessness will come to an end if the applicant refuses an offer of an allocation of housing under Part 6 of the Housing Act 1996 or a final accommodation offer of a private rented tenancy.⁶⁶ In such a case, the main housing duty also does not apply.⁶⁷ These are serious and significant consequences for households with neurodivergent children and need to be considered in this light.
4. When it comes to the main housing duty, refusal of an offer is an inherently risky thing to do for two main reasons:
 - a. The authority no longer has a duty to provide accommodation to the household at the time of the refusal. If the household requests a review of the decision that the accommodation offered was suitable, then the authority only has a power to continue to provide accommodation to the family while the review process is ongoing. So, even if the applicant is successful on the review, the authority can still refuse to provide accommodation after the refusal and pending its outcome.
 - b. Where the authority upholds its decision that the accommodation was suitable, then it will almost certainly discharge its duty to the household and no further duty will be owed to them (assuming that the prevention duty has also been discharged).

⁶⁶ S. 193A(2)

⁶⁷ S. 193A(3)



Offers of accommodation and suitability

Councils

Best practice for local authorities (mandatory offers)

- Authorities should make sure enough time is given to families to consider offers and viewings. Families will normally have to weigh up their different needs and decide whether the property adequately meets these needs. For families with neurodivergent children this will take more time and is likely to require a viewing. The local authority should therefore look to increase the time it allows for the decision and arrange viewings before the decision is made (even if not normally allowed for that type of accommodation).
- Ensure suitability is thoroughly assessed before formalising an offer. This would involve taking the best practice steps listed above, which can include, for example, instructing an OT to assess the property.
- Before making offers mandatory, and after taking the steps outlined above, the local authority should arrange a discussion of the offer with the applicant. This will allow any remaining concerns to be aired and investigated. For example, if the applicant is still concerned about the effect on their child's specialist education provision, then this could be raised. The local authority could then contact the school and/or education department to see if the issues can be resolved.
- Local authorities should consider not formalising potential accommodation as mandatory offers for families with neurodivergent children. This allows for a more collaborative approach and will result in quicker and fairer solutions. It also avoids the risk of starting a cycle of unsuitable offers being made to families with high housing needs and then successfully challenged, with no resolution. Not only can this cause severe distress to vulnerable families, but it wastes significant local authority resources that could be directed at finding a better housing solution.



Offers of accommodation and suitability

Councils

A note about mandatory offers: Offers that can result in permanent discharge of the homeless duty

1. During a homeless application, the local authority can make a number of different offers of housing that could result in the council ending the homeless duty (also known as discharging the homeless duty). These offers can be made at both the relief duty and the main housing duty stage. These offers can be of temporary accommodation (during the main housing duty only), private housing or social housing. Each of the different types of offers that can end the homeless duty are referred to as 'mandatory offers' below.
2. If an applicant refuses a mandatory offer, they can lose their temporary accommodation during a review of the offer. And, if the offer is found to be suitable, they will very likely receive no further housing assistance. This means a refusal of a mandatory offer can result in an applicant becoming completely homeless and having to then ask social services for support. Mandatory offers are particularly difficult where households include neurodivergent children. It is hard for applicants to assess if an offer could be suitable, when they have a high number of housing needs. Also, due to the difficulties change can bring for neurodivergent children, parents can be very reluctant to accept a potentially unsuitable offer, as they will be exposing their children to the significant distress of unnecessary change.
3. Due to the specific difficulties neurodivergent households face with mandatory offers, this is an area where local authorities should take particular care to consider whether they have a duty to make reasonable adjustments under the Equality Act 2010.

4

The homelessness pathway

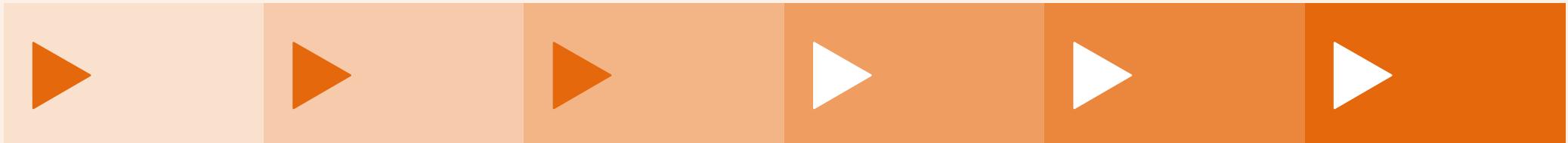
Practical tips for families experiencing homelessness

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These practical tips for families have been informed by the experiences of the families who have co-produced this guidance, the solicitors that work with them and the team at HASL.

The homelessness pathway

Families



**Making a
homeless
application**

**Emergency
temporary
accommodation**

**Application
phase**

**Assessment
phase**

**Suitability of
accommodation**

**Offers of
accommodation**



Making a homeless application

Families

- When you contact the council to say you are experiencing homelessness, make sure you let them know if anyone in your household is neurodivergent or has any other conditions or disabilities. You should include details of any suspected conditions that are undergoing assessment. Do this whether you contact the council online or in person.
- Send the council any supporting/medical documents that you have, such as a medical diagnosis report, Education, Health and Care Plan (EHCP) or disability benefit letters.
- Before making your application, think about the main problems your neurodivergent child experiences and clearly list them. If any of these issues are making it hard for you to stay living in your current housing, provide this detail clearly in your application. For example, think about whether if your child runs off, lashes out at siblings, has meltdowns, has difficulty sleeping or eats a heavily restricted diet.
- If the housing authority refuses to accept your homeless application or turns you away without conducting any enquiries into your housing circumstances, you may be able to challenge this decision. See Chapter 5, Challenging Homeless Decisions for further information.



Emergency temporary accommodation

Families

- It is likely that your local authority may try to place you in hotel or Bed and Breakfast (B&B) accommodation for a short period. This could include a shared kitchen or bathroom. If you don't think this is suitable for your neurodivergent child, then tell the council straight away, ideally in writing.
- If you have housing already, and you would prefer to stay there for a short period rather than live in a hotel, then discuss this with the local authority. But, always ask your housing officer to confirm in writing that they will be actively searching for more suitable longer-term accommodation.
- If the housing authority refuses to provide you emergency accommodation, or doesn't respond to your requests for emergency accommodation, you may be able to challenge this behaviour through judicial review and you should seek legal assistance. See Chapter 5, Challenging Homeless Decisions for further information.

Application phase

Families

The application phase is the period of time from the moment the homeless application is made, until the local authority decide they owe the applicant the main housing duty. During the application phase, there may be some unfamiliar terms used that you will need to understand. They are:

- **Preliminary duties** – these are either the **prevention duty** or the **relief duty**. The prevention duty means housing authorities have a duty to work with people who are threatened with homelessness within 56 days to help prevent them becoming homeless. While the relief duty requires housing authorities to help people who are homeless to secure accommodation.

- First, check you have the right preliminary duty. If you believe you are homeless, then the prevention duty could be the wrong duty. You can request a review of the decision about what duty you are owed (which means you can try and argue that you are homeless, and that instead you should be owed the Relief Duty). For example, the local authority may have awarded you the prevention duty, as you have a Section 21 notice, but not considered that your home is severely overcrowded. If you don't challenge the prevention duty decision it could cause longer delays, as the local authority may not consider your other housing problems properly.
- Then carefully review your steps in the PHP. If you don't think you can reasonably complete these steps, then you can ask the housing officer, in writing, to remove or change the steps. Explain the reasons for this, and how it relates to your neurodivergent child. For example, you could provide details of your care responsibilities and explain how you don't have time to view private properties.
- It is also a good idea to look at the PHP to check what the local authority is supposed to be doing. Think about what your family and neurodivergent child need, and if there is more support the local authority could offer in the plan to resolve or relieve your homelessness. If there is, you may want to try to review the steps the council are taking. See [Chapter 5, Challenging Homeless Decisions](#) for further information.
- The local authority will normally try to complete the PHP over the phone. If you find it difficult to express yourself over the phone and think a face-to-face appointment would help you to better explain your case, you can request an in-person appointment from your housing officer.

- **Personal Housing Plan or PHP** – this is a document that includes the steps the council will take to try and prevent you becoming homeless, or to quickly obtain suitable housing if you are homeless already. There will also be steps for you to take. The same document normally includes the council's assessment of your housing needs.”
- **Section 21 Notice** – This is a type of notice given by mainly private landlords when they want a tenant to leave, and the landlord does not have to give any reasons. In May 2026 they will be abolished.



Assessment

Families

The housing needs assessment is where the council confirms in writing what they agree are your housing needs.

This should describe what type of housing is suitable for you, for example, how many bedrooms you need, and what areas you need to be housed in. The assessment will normally involve an interview with a housing officer. You should receive written confirmation of what the council considers your housing needs are soon afterwards. This often is recorded in the PHP.

Before your housing needs assessment

- Write down a list of all your housing needs before speaking with the local authority. So that it is clear in your mind, divide the list up into different type of needs. You might like to look at housing needs assessment checklist made and used by HASL families. You can find the checklist in **Appendix** to this report. The types of needs include:
 - **physical needs** e.g. whether the property needs to be on the ground floor, away from a busy road or if you need an extra bedroom.
 - **safety needs** e.g. does the property need specific window locks, lighting or wall padding.
 - **location needs**. e.g. the location of your child's school, health and social care services or friends and family providing informal support.
 - **support needs** e.g. the name of a social worker or doctor who the local authority should communicate with.
- It is a good idea to send this list to your housing officer before the housing needs assessment takes place, along with any medical evidence you may have, such as confirmation of diagnosis or a copy of your child's EHCP. This will allow your housing officer to review the information before the assessment so that you can have a more productive, informed discussion.
- The local authority will normally try to do the assessment over the phone. But if you are not comfortable with this, tell the housing officer and request a face-to-face appointment. Whether you have a telephone call or in person appointment, remember you can ask a friend, family member or support worker to join you.



Assessment

Families

After your housing needs assessment

- If you didn't submit your written housing needs list and supporting evidence before the assessment, then you should do this afterwards to be sure that the housing officer has all the relevant information. If you chose a telephone assessment, make sure to send a follow-up email to your housing officer listing your needs and attaching supporting medical evidence.
- The local authority should send the final version of the written housing needs assessment to you. If you do not agree with the content of the assessment, or think something is missing, tell the local authority as soon as possible and explain what changes need to be made. If you think something very important is missing or is wrong in the assessment, and the authority refuse to change it, you may be able to challenge this decision.
- If your child's needs change, this may affect the type of accommodation you need or make your current accommodation unsuitable. If this happens, you can ask the authority to do a reassessment. If the local authority doesn't do a reassessment when asked, you may also be able to challenge this decision. See Chapter 5, Challenging Homeless Decisions for further information.



Suitability of accommodation

Families

- Read your housing needs assessment carefully. If it doesn't meet the needs of your neurodivergent child, ask in writing for it to be reviewed before any offer of accommodation is made.
- Homeless applicants are not normally entitled to view temporary accommodation before they are required to accept it. If you think it is important to check in person that the property is suitable for your neurodivergent child, you can request that the authority make a reasonable adjustment to their viewing practice so you have the chance to see the property before you accept it.



Offers of accommodation

Families

- If you have a viewing of the mandatory offer, it can be helpful if your child is able to attend the viewing with you. This will help you to evidence if there are any issues with the housing that could affect your child. For example, if there are train tracks close by and the noise could distress your child. Take a video of the property and focus on any issues of concern. It is important to have a detailed record of any issues if you want to request a suitability review.
- You may need time before you move to a new property so your child can transition to their new home at a slower pace. If that is the case, you can request a reasonable adjustment to the local authority's practice of making applicants move immediately to new accommodation.
- The local authority normally has a duty to ensure your personal belongings are protected. So if your neurodivergent child has specialist equipment which is expensive and challenging to move or store, tell the authority in writing and make a list of the specific belongings which you need help to protect during your move.
- Whether or not the local authority allows you to view the property, DO NOT reject an offer of accommodation without speaking to a lawyer or advisor. Offers of accommodation can be challenged, but there can be serious negative implications for your homeless application if you reject accommodation which the local authority believes is suitable for you.
- If you are given a mandatory offer that you have serious concerns about and you do not have a lawyer already working on your case, then you should immediately seek urgent legal advice. Inform the council that you are seeking urgent legal advice and request that they allow you some time for this.
- It can be difficult to get legal advice at very short notice. If you cannot find legal advice you could try to negotiate with the council yourself in writing.



Offers of accommodation

Families

Our tips for negotiating

- Do this in writing so there is a record of what has been said.
- It is very important that you **do not** refuse the offer. In fact, you should clearly state in writing that you are accepting the offer but that you believe the offer is unsuitable.
- You must comply with the council's deadlines for accepting the offer and moving into the property – as otherwise it will be recorded that you have refused the offer.
- Explain the main concerns you have and the harm this could cause your neurodivergent child.
- Check the council's housing needs assessment document, and see if the property meets the standards that the council says you need. For example, the assessment document could say you need to be housed in borough, and the property is outside the borough. If the property does not meet your assessed needs, then you can ask the council to explain why.
- Ask for more time to be allowed for you to consider the offer and explain that you will seek legal advice.
- Ask them to formally 'withdraw' the offer in writing because it is unsuitable.

Important note

The local authority may refuse to withdraw the offer. They may even refuse to negotiate or allow you more time to seek legal advice. If that is the case, then this gives a strong indication that the local authority intends to end your housing support if you refuse the offer. It is important that you confirm in writing that you are accepting the offer and that you want to request a review of the suitability of the offer.

By accepting the offer and opening a suitability review, you are protecting your homeless rights. Moving into the property will allow you to evidence any problems with the suitability of the property. This will give your review a better chance of success.

5

Challenging homeless decisions

Information for families

How to challenge a decision

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This part of the guidance is for families who have made a homeless application and are unhappy with the decision made by their local authority. It explains, step by step, the process you should follow to challenge a homeless decision.

How to challenge a decision

1. If you receive a negative decision from a local authority during your homeless application, dependent on the reasons for the decision, there is normally an option to try and challenge it. There are two main types of challenge. The first is a 'statutory review' under section 202 of the Housing Act 1996.
2. Statutory reviews must be requested within 21 days⁶⁸ of you being notified of the decision. Typical examples of decisions made by the local authority which you may be able to request a statutory review for include:
 - a. Decisions that the applicant is either not homeless, not eligible, not in priority need or is intentionally homeless.
 - b. A challenge to the steps contained in the Personal Housing Plan (PHP) that the council say they will take. For example, if you think these are not reasonable or they could be doing more.
 - c. A decision that an offer of accommodation is suitable (but not when you are in emergency accommodation before the main duty is owed).
 - d. A decision to accept one type of duty when you think a different duty should be owed.
 - e. A decision to end a homelessness duty.

This is not an exhaustive list and if you think you have received a negative homeless decision, you should seek legal advice.

3. Where a statutory review is not available, a 'judicial review' is a 'last resort'⁶⁹ option. This is a legal method of challenging the unlawful decision, behaviours or failures of public bodies. A judicial review claim must be sent to the High Court without delay, and in any event within three months of the date of the decision⁷⁰. If the failure of the local authority is ongoing (such as they are failing to provide you with temporary accommodation) this three-month time limit may not apply. But you should seek legal advice as soon as possible.

⁶⁸ S202(3) Housing Act 1996

⁶⁹ (Glencore Energy UK Ltd) v Revenue and Customs Comrs [2017] EWCA Civ 1716

⁷⁰ CPR 54.5(1)

How to challenge a decision

4. Typical examples of decisions or actions by the authority that may be challengeable by judicial review include:
 - a. A failure or refusal to accept a homeless application, to carry out homeless inquiries or to provide emergency accommodation.
 - b. If you believe the emergency accommodation provided is very unsuitable.
 - c. A failure or refusal to provide suitable accommodation when the local authority has already accepted that the temporary accommodation you occupy is not suitable.
 - d. A failure or refusal to produce or keep under review, a lawful housing needs assessment. If the content of the housing needs assessment is irrational or very unreasonable, you can also try and challenge the content of the assessment.

Again, this is not an exhaustive list and if you think the local authority is not behaving lawfully, you should seek legal advice.

5. If you receive any kind of decision letter from the local authority, it should normally inform you of your right to challenge the decision. If the letter gives you any deadlines, it is important to make a note of them and try to get legal advice as soon as possible. **If you miss the deadline, you may lose your right to challenge the decision.**
6. If you are struggling to find a lawyer to help you challenge a statutory review, you should email the relevant 'reviews' team at the local authority and request the review yourself within the 21-day time limit. The email address should normally be in the decision letter. If there isn't an email address in the decision letter or you haven't received a decision letter, contact your housing officer and make clear that you are requesting a review and state the decisions you want to challenge.

How to challenge a decision

7. Every local authority has a formal complaints process, which can be used to raise problems you have experienced with the homeless process. It is normally a two or three-stage process. If you get to the end of the council's process with no resolution, then you can complain to the Local Government and Social Care Ombudsman. The ombudsman normally requires you to complain to them within 12 months of the problem arising. You should always try to escalate to the ombudsman before this 12-month deadline, even if you have not yet completed the council complaints process.
8. Although complaints can be very helpful in getting a local authority to consider problems and put a response in writing, there are limits. A complaint should normally only be used for administrative issues, such as delays or admin errors. A complaint should not be used to resolve any legal disputes, such as whether your accommodation is unsuitable.

Appendix and Glossary

Housing Needs Assessment checklist

This is a checklist made and used by families involved with Housing Action Southwark and Lambeth (HASL). It is used and amended in an ongoing way by and with those families.

When you open your homeless application the housing officer must conduct something called a 'Housing Needs Assessment'. This is a record of your household's housing needs. This should include -

- the size of the accommodation,
- the type of accommodation,
- the location of the accommodation,
- any specific requirements for a household containing a disabled person or person with medical needs

The Housing Needs Assessment is an important and useful document for homeless people. We can use the Housing Needs Assessment as a tool to try to make sure that the council provides suitable temporary accommodation.

There are key times when the Housing Needs Assessment is particularly important:

- At the start of your homeless application when you are waiting for temporary accommodation
- If you have had a successful suitability review and you are waiting for new temporary accommodation
- If there has been a change of circumstances in your household and you need to request a suitability assessment/new temporary accommodation

Usually the housing officer does not do a very detailed job of your Housing Needs Assessment so we have made a checklist below that you can complete yourself. You can then submit this information to the housing officer so that they have more detailed information about your housing needs.

Having a detailed Housing Needs Assessment means:

- The housing officer has information about what kind of temporary accommodation is suitable for your family which they should use when finding temporary accommodation.
- If the temporary accommodation provided to you does not match with your Housing Needs Assessment, then it will be an important point for you to highlight in your suitability review. For example, if your Housing Needs Assessment states that you need a 2 bedroom home and you have been given 1 bed temporary accommodation, it is clear that the accommodation is unsuitable. (Remember, in almost all circumstances, if you are unhappy with an offer of temporary accommodation, it is important to accept an offer of temporary accommodation and then open a review).

Housing Needs Assessment checklist

The housing officer will usually collect information from you for the Housing Needs Assessment during your homeless interview. The housing officer will usually ask questions about your family's circumstances and housing needs and this information should be recorded by the housing officer in your Housing Needs Assessment.

But you do not need to wait until your homeless interview to submit information for your Housing Needs Assessment. You could email your housing officer any relevant information and documents for example, medical documents, Education, Health and Care Plan etc.

You should be sent a copy of the Housing Needs Assessment. This is usually contained in the document called the Personal Housing Plan (PHP). If you disagree with what the housing officer has written for your Housing Needs Assessment, then you can write back to your housing officer highlighting what you think is wrong and any information that needs to be included. If the housing officer refuses to engage with your feedback, then you should seek legal advice as the next step to challenge an incorrect Housing Needs Assessment by Judicial Review.

The Housing Needs Assessment should be kept up to date by the council and it should include any 'change of circumstances' for example, new family members joining your household. The council have a legal duty to have a Housing Needs Assessment for you throughout your homeless application.

Below is a Housing Needs Assessment checklist that we have made to help you to report key information about your housing needs to your housing officer. If your child has autism/ neurodiversity, please also use our 'Extra Housing Needs Assessment (HNA) questions for families with children with autism' check list as well.

Housing Needs Assessment checklist

Page 1 of 3

Name, age, gender and relation (eg. son, partner etc.) of everyone in the household. Please list details if anyone in your household is pregnant including the due date of the baby.

Location and level of education for every member of the household (eg. school year, GCSEs, A-levels). Note: include nursery, and adult courses (eg. ESOL) Does anyone have an Education, Health or Care Plan (EHCP)?

How many bedrooms does your family need?

Location of work and weekly working hours for every household member.
For hours do full detail eg. 9am-12pm Monday, 11am-4pm Tuesday etc.

Housing Needs Assessment checklist

Page 2 of 3

Please list any health conditions of any household members and give a short explanation of how this impacts on their daily life.

Any housing needs resulting from health conditions (eg. no stairs, extra bedroom, effect on use of public transport etc.)?

Any specialist treatment/therapy they receive that means they need to stay in a certain area? Or any other medical reason to be in a certain area (eg. get care from someone living locally)

Are they receiving any welfare benefits for their health condition?

Does anyone in your family care for someone who does not live with you? Provide details including address of the person they care for, and typical weekly hours that they provide care eg. 9am-12pm Monday, 11am-4pm Tuesday etc.

Any at risk areas (eg. domestic abuse)?

Explain the reason why you/your family member are at risk

Housing Needs Assessment checklist

Page 3 of 3

Do they have a young child that you need to use a buggy for?

And if so, do you need a property on the ground floor or lift?

Is there anything else that is very important to you that would be hard to do if you are moved far away? Eg. church, Quran reading class etc. Give full details

Do any of your children's parents not live with you (eg. you separated from your oldest daughter's father and he doesn't live with you)? If your child still has a relationship with that parent, then please detail where the parent lives, and how often the child sees the parent

Is there anything else that you think is important that the council needs to know when finding you housing.

Extra Housing Needs Assessment (HNA)

questions for families with children with autism

Please see our Housing Needs Assessments information sheet. We have made this additional HNA check-list for families with children with autism to try to help record the extra housing needs information your families may have.

It's really important to take your time to think very carefully about what type of housing your family, and especially your child with autism, needs and to record this in writing. There may be things that seem so obvious to you so you do not think to mention them, for example, if you already have a garden in your current home, you may not think to record this a 'housing need' as it is something you already have. But when you are recording your housing needs, it is good to think about -

- What is there in my current housing that is important and meets my child's needs? If you no longer had this, what impact would it have on your child?
- Are there things that your child needs in the current housing that you currently do not have? What impact is this having on your child?

Extra Housing Needs Assessment (HNA)

Page 1 of 2

Location of new accommodation

What is the ideal location of new accommodation? And can you explain the reasons why you need to be in this location?

— **Do you need to be near to a particular place such as a school?**

— **What distance from the school does the home need to be and what is the ideal mode of transport?** For example, does the child need to be able to walk to school and what is the maximum distance/time the child can walk for? Or can your child travel on the bus for 2-3 bus stops to get to school?

Inside the home

What floor level does your child need?
And please explain why

Does your child need their own bedroom?
And if yes, why?

Does your child need the kitchen to be separate from the living room - or is an open plan kitchen and living room ok?
Explain which option and why

Does the family need the bathroom and toilet to be separate? And if so, please explain why

Does the family have storage needs?
For example, for any specialist equipment

Is there anything inside the house that your child needs? Is there anything inside the current accommodation that your child needs /uses now or any new things that your child needs?

Extra Housing Needs Assessment (HNA)

Page 2 of 2

Outdoors

Does your child need access to a private garden? And if yes - can you give reasons why this is important?

Anything else

Is there anything else in terms of accommodation/housing that is important for your child?

Hazards

Are there any other hazards that we should be aware of? For example, the accommodation should not be near a busy road - because some children may try to escape the house and run into the road

Or is there anything else that is important for your child and family even if it is not directly related to housing? It is worth mentioning because this will help the housing officer to understand your family's specific needs.

Glossary

Part 7 of the Housing Act 1996 is the key piece of legislation that governs the homelessness pathway and the rights of applicants in temporary accommodation. In comparison, Part 6 of the Housing Act 1996 is the legislation dealing with the permanent allocation of social or council housing.

As this guidance considers the impact of temporary accommodation on neurodivergent children and families, more focus is spent looking at the provisions of Part 7 of the Housing Act 1996. Although some reference to the permanent allocation of social housing will be relevant.

The legislation and accompanying regulations and guidance are complex, and full of challenging definitions. The purpose of this glossary is to simplify some of the definitions for the benefit of the reader. Please note that these are not the strict legal definitions but will assist in navigating this guidance, and the homelessness pathway in general.

Temporary accommodation

Any accommodation secured by a local housing authority which is not permanent or private rented sector accommodation. The accommodation will be secured by the local housing authority pursuant to an ongoing homelessness duty. For example, temporary accommodation could be emergency accommodation, such as B&B accommodation, or long-term temporary accommodation where an applicant could expect to remain for many years.

Permanent accommodation

Accommodation secured by a local housing authority under Part 6 of the Housing Act 1996 as an allocation of social or council housing. Typically, this accommodation is secured by way of 'direct offer' to the person applying or as a result of the applicant bidding successfully on a property through the council's housing waiting list website. Permanent accommodation could also be private rented sector accommodation sourced by the local housing authority and offered to someone in order to end a homelessness duty.

Homeless

When a person has no accommodation available to occupy or is unable to access their accommodation. Additionally, a person may be homeless if they have accommodation, but it is no longer reasonable for them to continue to occupy (e.g. it has become unaffordable or is unsafe), or they are not legally entitled to occupy the accommodation (e.g. a possession order has been made). **When a person is homeless but they have accommodation, this is known as being "homeless from home".**

Eligible

This relates to a person's immigration status. Typically to be eligible for homelessness assistance you will be a British Citizen or have indefinite leave to remain or not be subject to immigration control. These are examples only and there are other categories of eligibility.

Glossary

Priority need

Pregnant women, people with dependent children, care leavers and people experiencing homelessness as a result of domestic abuse will all automatically be considered to be in priority need for housing. This is not an exhaustive list. A person who is vulnerable as a result of old age, mental illness or learning disability or physical disability, or any other special reason may also be found to be in priority need.

A person who is vulnerable as a result of ceasing to occupy accommodation because of violence, or threats of violence from another person which are likely to be carried out, may also be found to be in priority need.

When determining 'vulnerability' the local authority should consider whether, when homeless, the person applying is less able to cope with homelessness or is more at risk of harm in a significant way than an ordinary person.

Local connection

A person may have local connection to a local authority housing area if they are, or were in the past, normally resident there and that residence was their own choice. This also applies if they were placed in accommodation there by the Home Office under section 95 of the Immigration and Asylum Act 1999. 'Normal residence' means resident in the area six out of the past 12 months or three out of the past five years. Additionally, a person may have local connection if they are employed in the area, have a family association there, or because of any other special circumstances.

Intentional homelessness

The council can decide that you caused your homelessness if you deliberately did something or failed to do something which led you to become homeless.

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enquiries please contact info@urbanhealth.org.uk.

Authors: David Cowan (Doughty Street Chambers,
Associate), Thea Grattidge, Luke Sheldon, Claire Wiles
(all GT Stewart) and Vicki Garratt.

Project Managers: Leila Baker and Theo Harrison.

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